

<b>Committee:</b> Development Committee	<b>Date:</b> 15 <sup>th</sup> September 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Corporate Director of Development and Renewal	<b>Title:</b> Planning Enforcement Review 2013/14
<b>Case Officer:</b> Gerard McCormack	

## 1. RECOMMENDATION

- 1.1. Members note the report.

## 2. EXECUTIVE SUMMARY

- 2.1 Planning as a tool for managing change in the built environment and can be a complex and sometimes contentious issue across the country. Tower Hamlets is no exception to this. The delivery of an effective, consistent and efficient enforcement service is seen as an important aspect of the planning system and has a great impact on the lives and livelihoods of the people living, working in and visiting the Borough.
- 2.2 The planning enforcement team has been fully staffed for almost two years and consists of a manager, three officers and a recently appointed apprentice working one day a week. This report provides a review of the work carried out by team between April 2013 and March 2014 and shows how the planning enforcement process can be used as an effective tool to protect and improve the quality of the environment in Tower Hamlets. If agreed by members this report will be published on the planning enforcement pages of the Council's website acting as a reference point for users of the service.
- 2.3 In the coming months an Enforcement Plan will be presented to members outlining the objectives of service for the next two to three years.

## 3. REVIEW OF 2013/14

### *Caseload management within planning enforcement*

- 3.1. During the 2013-14 period, the Planning Enforcement Team received 709 new complaints reporting alleged breaches of planning control. This compared with 429 complaints received within the 2012/13 period representing a 40% increase. This increase can be attributed to increased awareness of the service by members of the public, by other Council departments and outside agencies.
- 3.2. During the 2013-2014 period the number of cases more than 2 years old was reduced from 113 cases (27% of total open cases) to 60 cases (13% of total open cases). This reduction was a direct result of having a fully staffed team, allowing officers to address any backlog and also allowing officers to take on more pro-active work in the coming year.

- 3.3. During the 2013-14 period a total of 652 cases have been closed following enforcement investigations.
- 3.4. As of the 31<sup>st</sup> March 2014 there were 477 open enforcement cases shared between the four team members.
- 3.5. In 37% of cases closed, there was found to be no breach of planning control or the breach was immune from enforcement action.
- 3.6. In 10% of cases closed, it was determined that it was not expedient to pursue formal enforcement action, as the breach was minor or was not causing unacceptable harm.
- 3.7. In 63% of cases reported breaches of planning control were established and investigated accordingly.
- 3.8. Where there was found to a significant breach of planning control, or where development was considered to be causing unacceptable harm, compliance was achieved in 67% of cases, without the need for formal enforcement action.
- 3.9. In 17% of cases closed, where a breach of planning control was established compliance was achieved following the service of a formal enforcement notice.
- 3.10. The table below provides further information as to the reasons why enforcement cases were closed.

Compliance without formal action	Compliance following notice	Retrospective application approved	Immune	Not Expedient	No Breach
30% (197)	12% (80)	9% (61)	6% (42)	10% (68)	31% (203)

### ***Enforcement notices***

- 3.11. Serving an Enforcement Notice is the most common and most effective formal method of action for remedying unauthorised development, if there is demonstrable harm and this cannot be resolved easily through negotiation. Enforcement Notices are served early in an investigation when then the breach of planning control is causing significant harm or where the transgressor has made it clear that they are unwilling to remedy the breach. A person in receipt of a notice has the right of appeal which is considered by the Planning Inspectorate.
- 3.12. Forty-five Enforcement Notices were served in the 2013/14 period. The table in appendix 1 summaries the breach of planning control and current status of the case in relation to each of the properties against which notices have been served.

### ***Enforcement Notice Appeals***

- 3.13. If an appeal is lodged against an enforcement notice, the requirements of the notice are held in abeyance until the appeal is determined by the Planning Inspectorate.
- 3.14. The grounds upon which an enforcement notice can be appealed include:
- 3.15. Ground (a) – that planning permission should be granted for what is alleged in the enforcement notice, or that the condition which is alleged not to have been complied with should be discharged.

- 3.16. Ground (b) – that the breach of planning control alleged in the enforcement notice has not occurred as a matter of fact.
- 3.17. Ground (c) – that there has not been a breach of planning control
- 3.18. Ground (d) – that at the time the enforcement notice was issued it was too late to take enforcement action against the matters stated in the notice.
- 3.19. Ground (e) – the notice was not properly served on everyone with an interest in the land.
- 3.20. Ground (f) – that steps required to comply with the requirements of the enforcement notice are excessive and lesser steps would overcome objections.
- 3.21. Ground (g) – the time given to comply with the notice is insufficient or unreasonable.
- 3.22. The Planning Inspectorate will dismiss or allow the appeal and also has the ability to vary enforcement notices should they feel this is necessary. On some occasions they make split decisions – part allowing and part dismissing the appeal. The table below indicates the outcomes of enforcement appeals decisions determined between 2013/14.

Address	Breach	Appeal Decision	Update
Ferry House, 26 Ferry Street	Unauthorised windows, doors and a flue installed on the outside of a listed building	Dismissed	Awaiting compliance
568 Mile End Road	Change of use from B1 to C3	Dismissed	Complied with
68-70 Manilla Street	Commercial carpark operating	Dismissed	Complied with
130 Commercial Road	Installation of roller shutters, upvc windows, rendering and shopfront	Dismissed	Awaiting compliance
11 Chapel House Street	1 <sup>st</sup> floor rear extension and ground floor extension	Dismissed	Complied with
1 Broomfield Road	Use of the land as a shisha lounge	Notice Quashed	Another notice has been issued which has been appealed
60 Canton Street	Front extension	Dismissed	Complied with
80 Brick Lane	Unauthorised shopfront	Dismissed	Complied with

15-17 Lemon Street	Installation of a pay phone kiosk on footway	Notice Quashed	Closed
89 Cheshire Street	Two storey infill extension	Dismissed	Awaiting compliance
77-81 Redchurch Street	Basement being used as a separate residential unit	Dismissed	Complied with

- 3.23. Overall 82% of enforcement appeals were upheld which is significantly better than the national overall average of 74%.

#### ***Works in default***

- 3.24. This year officers instructed contractors to carry out the necessary works to achieve compliance with enforcement notices at four properties after attempts to persuade the owners to voluntarily carry out the works failed. These properties are listed in the table below. Officers have taken the necessary steps to ensure that all monies spent are recovered from the owners.

Address	Breach
124-126 Brick Lane	Unauthorised rear extension facilitating a shisha lounge
110-116 Pennington Street	Works carried out to remove all the paraphernalia associated with a shisha lounge
Flat 66 The Cloisters	Upvc windows installed on a listed building replaced with traditional wooden sliding sash
3 Flamborough Walk	Security bars and gates in front of windows and doors on a listed property

#### ***Section 215 Notices***

- 3.25. Where the condition of land or a building is adversely affecting the amenity of a neighbourhood, the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to improve the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council also has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner.
- 3.26. A total of nineteen Section 215 notices were issued in 2013/14 as summarised in appendix 2. The enforcement team identified areas for pro-active enforcement action to improve the condition and appearance of properties within the Borough's Conservation Areas, with a particular focus on the Whitechapel Area following the investment made to improve the appearance of properties as part of the High Street 2012 Improvement Project.
- 3.27. Following the success of the Whitechapel pro-active improvement project this work will be expanded to other areas of the Borough including Roman Road Market Conservation Area, Commercial Road, Burdett Road and around the Mile End Area.

This work will be carried out in addition to the reactive and investigations into standalone properties in the Borough which are causing concern and reported by residents.

### ***Breach of Condition Notices***

- 3.28. These can be used as an alternative to an Enforcement Notice. There is no right of appeal against a breach of condition notice and 12 were issued in 2013/14. The table in appendix 3 provides details on the breach of condition notice that have been served in 2013/14.

### ***Advertisement Removal Notices***

- 3.29. These are issued requiring illegal advertisements to be removed from buildings or areas of land. As well as dealing with reactive complaints pro-active action has also been taken within the Whitechapel Area to remove high level and illuminated signage, with a particular focus on listed buildings. A total of 16 advertisement removal notices were issued in 2013/14 and further details on them can be found in appendix 4.

### ***Listed Building Enforcement Notices***

- 3.30. The listed building enforcement notices are issued when works are carried out to buildings which are listed without the required listed building consent being approved. Although similar to enforcement notices there is no time limit for when enforcement action may be taken in relation to works to listed buildings..
- 3.31. In 2013/14 thirteen Listed Building Enforcement Notices were issued where works had been carried out that had a detrimental impact on the historic fabric and appearance of the building. Appendix 5 provides further details on properties served with listed building enforcement notices.

## **4.0 THE COMING YEAR**

- 4.1 Over the next 12 months the Planning Enforcement Team has an ambitious programme of works proposed. As well as continuing with the work described above, the following measures are also proposed:
- i. Attempt to work more closely with other Council departments and external organisations to resolve breaches of planning control that are causing harm to the amenities of the Borough's residents.
  - ii. Identify new areas in the Borough where pro-active enforcement projects will improve their character and appearance, especially conservation areas.
  - iii. Publicise and promote the success of the planning enforcement service using press articles and the Council website.
  - iv. Review and improve the Planning Enforcement Pages of the Council's website, enhancing the interaction of residents with the service and simplify the process of reporting potential unauthorised breaches of planning control.
  - v. Finalise and present an Enforcement Plan to committee outlining the Council's approach to planning enforcement for the next 2-3 years.

## Appendix 1

### Enforcement Notices Issued

87 New Road	UPVC windows on the 1 <sup>st</sup> and 2 <sup>nd</sup> floor level on the front elevation	Appeal Dismissed
85 New Road	UPVC windows on the 1 <sup>st</sup> and 2 <sup>nd</sup> floor level on the front elevation	Appeal Dismissed
98 Mile End Road	Unauthorised A3 use and extraction flue	Complied with
Prince Alfred Public House, 86 Locksley Street	Unauthorised parapet wall and satellite dish	Complied with
28 Mastmaker	Unauthorised commercial car park	Complied with
Waterlilly Centre, Mile End Road	Seeking compliance with 8 conditions attached to the original permission	Complied with
50 Fashion Street	Seeking compliance with condition 4 (opening hours)	Complied with
1a Broomfield Street	Cease the use of the premises as a shisha smoking lounge	Appeal with Planning Inspectorate
455 Hackney Road	Cease the use of the land as a tyre fitting centre, car wash and commercial car park	Complied with
99 Fieldgate Street	Remove roller shutters and terracotta tiles from the front of property	Awaiting compliance
91 Fieldgate Street	Remove the shop front and associated high level fascia and roller shutters	Awaiting compliance
101 Fieldgate Street	Remove the roller shutters	Awaiting compliance
159 Commercial Street	Requiring compliance with condition 2 seeking the development to accord with the approved plans namely the installation of screening	Awaiting compliance
153 Bethnal Green Road	Adhere to condition 3 opening hours of planning permission PA/04/01040	Complied with
10C Morgan Street	Removal of satellite dish	Complied with

10A Morgan Street	Removal of satellite dish	Complied with
31 Portland Square	Change of use from C3 residential into short term holiday lets	Complied with
548 Roman Road	Unauthorised rear extension including shed, structure linking shed to main building and housing of the air conditioning units	Appeal dismissed
16-18 Whitechapel Road	Removal of roof extension currently used as an independent residential unit	Complied with
124-126 Brick Lane	Cease the use of unauthorised shisha lounge/venue	Complied with
173 Woodseer Street	Remove outbuilding from the rear of the property	Complied with
303 Whitechapel Road	Remove unauthorised shop front	Complied with
703 Commercial Road	Satellite dish	Complied with
1a Kay Street	High level fencing	Complied with
6 Myrdle Street	Satellite Dish	Complied with
77-81 Redchurch Street	Use of basement as a separate residential unit	Complied with
10 Heneage Street	Shop front, roller shutters, fascia and projecting advertisements	Complied with
60 Canton Street	Front extension	Complied with
86 Cheshire Street	Balcony railing	Complied with
52 Twelvetrees	Static caravan and metal storage container	Complied with
253 Whitechapel Road	Installation of shop front	Awaiting compliance
43 Thomas Road	Change of use of the ground floor from A3 to A3 and A5 takeaway	Complied with
26-30 Vallance Road	Rear extension behind shops being used as independent self-contained residential units	Complied with

Docksiders, 55 Sutton Street	Removal of dormer on front roof slope	Complied with
83 New Road	Unauthorised extraction flue	Appeal with Planning Inspectorate
27 Broomfield Street	Unauthorised rear extension	Complied with
44 Myrdle Street	Unauthorised satellite dish	Awaiting compliance
61 New Road	Unauthorised satellite dish	Complied with
10 Kingsfield Street	Unauthorised rear and side (wrap around) extension	Appeal with Planning Inspectorate
71A Fairfield Road	Development not built in accordance to the approved plans – Notice requires louvres, screens and alterations to the windows to prevent overlooking to neighbouring properties	Awaiting compliance
Unit F2, 82-90 Mile End Road, London, E1 4UN	Unauthorised change in use of the property from D1 (Educational use) to D2 (Snooker and Pool club) without planning permission.	Appeal with Planning Inspectorate
8 Hackney Road	Change of use from a B1 office to Mini Cab sui generis	Appeal with Planning Inspectorate
9 Grand Walk	Change of use of a residential premises into a brothel	Complied with
46 Brick Lane	Unauthorised shop front	Awaiting compliance



## Appendix 2

### Section 215 Amenity Notices

123-125 Whitechapel Road	Repair and repainting of 1 <sup>st</sup> and 2 <sup>nd</sup> floor level and removal of batons	Awaiting compliance
222-224 Commercial Road	Repair and repainting and removal of redundant advertisements	Awaiting compliance
220 Commercial Road	Repair and repainting of 1 <sup>st</sup> floor level	Complied with
218 Commercial Road	Repair and repainting and removal of redundant advertisements	Complied with
1 Hickin Road	Rubbish in the front and rear gardens	Awaiting compliance
151 Whitechapel Road	Improvements to render and repainting of surfaces	Complied with
110 Whitechapel Road	Wash down the property and paint front elevation at 1 <sup>st</sup> and 2 <sup>nd</sup> floors of the property	Complied with
151 Whitechapel Road	Wash down southern and western elevations and repaint timber windows and render	Complied with
119-121 Whitechapel Road	Condition and appearance of the property	Awaiting compliance
107-113 Whitechapel Road	Condition and appearance of the property	Awaiting compliance
115 Whitechapel Road	Condition and appearance of property	Awaiting compliance
31 New Road	Condition and appearance of property	Awaiting compliance
419 Bethnal Green Road	Condition and appearance of property	Awaiting compliance
16 Cavell Street	Condition and appearance of property	Complied with
18 Cavell Street	Condition and appearance of property	Awaiting compliance
243 Commercial Road	Condition and appearance of property	Complied with

21 New Road	Improvements to the condition and appearance of this listed property	Awaiting compliance
255-259 Commercial Road	Removal of redundant advertisement signs and batons and repainting of property	Awaiting compliance
193 Whitechapel Road	Remove former advertisement hoarding from roof and above entrance way, remove satellite dish and reinstate the fascia panels that are missing	Awaiting compliance

### Appendix 3

#### Breach of Condition Notices Issued

New Providence Place	Failure to adhere to conditioned hours	Complied with
49-53 New Road	Failure to provide a delivery plan and follow it	Complied with
6 Manilla Street	Failure to make parking spaces available to residents of the development and fire station	Awaiting compliance
1 Knighten Street	Hours of opening and noise mitigation measures	Complied with
88 Brick Lane	Operating outside of conditioned hours 09:00 – 24:00(Midnight) Monday – Saturday and 09:00-23:00 Sundays	Continuing to monitor
212 Brick Lane	Cease using the premises as a bar (i.e. sale and service of drink and food; playing of music; and entry of customers onto the premises), other than between the hours of 1000hrs to 2300hrs Sunday to Thursday and Bank Holidays, and between the hours of 1000hrs to 0000hrs Fridays and Saturdays, with all patrons including staff to vacate the premises within one hour of closing.	Continuing to monitor
78 Brick Lane	Cease using the premises as a restaurant, other than between the hours of 0800am to Midnight Mondays to Saturdays and between the hours of 09:00am to 10.30pm Sunday and Public Holidays	Continuing to monitor
128 Brick Lane	Cease carrying out the use of the premises as a Hot food restaurant and takeaway other than	Continuing to monitor

	between the hours of 9:00 to 24:00 (midnight) Mondays to Saturdays and between 9:00 to 23:00 on Sundays and Bank Holidays.	
77 Brick Lane	Cease carrying out the use of the premises as an A3 restaurant other than between the hours of 09:00 to 24:00 (midnight) Mondays to Saturdays and between 10:00 to 23:00 on Sundays and Bank Holidays.	Continuing to monitor
149 Brick Lane	Cease carrying out the use of the premises as an A4 bar other than between the hours of 11:00am to 23:30pm Mondays to Saturdays and Bank Holidays and ensure all patrons and staff to have left the premises by midnight.	Continuing to monitor
Flat 11, (SPACE 11) Hutchings Wharf, 1 Hutchings Street, London, E14 8JY	Removal of storage container in a designated parking space	Complied with
Brownfield Site, Burcham Street, London	Condition 17 requiring windows on the northern and southern sections to be obscurely glazed	Complied with

## Appendix 4

### Advertisement Removal Notices

83-89 Mile End Road	Removal of fascia advertisement	Awaiting compliance
80 Brick Lane	Projecting sign and illuminated fascia sign	Awaiting compliance
28 Ensign Street	48 Poster hoarding located on 1 <sup>st</sup> and 2 <sup>nd</sup> floor levels	Complied with
84 Whitechapel High Street	Illuminated fascia and projecting sign	Complied with
233 Bethnal Green Road	Advertisement hoarding on western elevation and projecting 1 <sup>st</sup> floor sign on front elevation	Complied with
99 Mansell Street	Advertisement shroud and associated housing	Awaiting compliance
628 Roman Road	Projecting advertisement on 1 <sup>st</sup> Floor	Complied with
44-46 Brodlove Lane	Illuminated fascia sign	Complied with
126 Cannon Street Road	Two illuminated signs on front of a listed building	Awaiting compliance
13 Whites Road	Advertisement hoarding, projecting sign, board sign and advertisement stickers on window	Awaiting compliance
189 Whitechapel Road	Two advertisement hoardings that extend across the full width of the property	Complied with
8 Hackney Road	Internally illuminated fascia sign and projecting sign	Awaiting compliance
90 Mile End Road	Projecting sign on the side of a listed building	Complied with
389 Roman Road	1 <sup>st</sup> floor banner advertisement	Awaiting compliance
18 Cavell Street	Remove first floor projecting advertisement from conservation area	Awaiting compliance

## Appendix 5

### Listed Building Notices

98 Mile End Road	Unauthorised extraction flue	Complied with
18 Myrdle Street	Satellite Dish	Complied with
811 Commercial Road	Remove existing shop front and replace with traditional Victorian frontage	Awaiting determination of appeal
7 Flamborough Street	Installation of plastic windows on front and rear elevation, and a plastic sliding door on rear elevation	Complied with
297 Cambridge Heath Road	Installation of plastic windows	Awaiting compliance
299 Cambridge Heath Road	Installation of plastic windows	Awaiting compliance
301 Cambridge Heath Road	Installation of plastic windows and a satellite dishes	Awaiting compliance
303 Cambridge Heath Road	Installation of plastic windows	Awaiting compliance
65 New Road	Unauthorised plastic windows, basement door, advertisement fascia board, satellite dish, alarm boxes and wire mesh	Awaiting compliance
14 New Road	Unauthorised roller shutters, platform above basement void and internally illuminated fascia and projecting signs	Awaiting compliance
57A Arbour Square	Replacement of PVC entrance door with a wooden one	Awaiting compliance
21 New Road	Removal of roller shutters and alarm boxes	Awaiting compliance
103 Bow Road	Demolish three storey rear extension and replace 2 <sup>nd</sup> floor plastic window	Awaiting compliance